

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No.: 3:13-CR-91-TAV-HBG
)
MALCOLM LYNN CARPENTER,)
)
Defendant.)

ORDER

This criminal case is before the Court for consideration of the Report and Recommendation entered by United States Magistrate Judge H. Bruce Guyton on November 21, 2014 (the “R&R”) [Doc. 53]. There have been no timely objections to the R&R, and enough time has passed since the filing of the R&R to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); Fed. R. Crim. P. 51.

In the R&R, Magistrate Judge Guyton concludes that the proffered evidence preponderates in favor of the existence of two conspiracies and, accordingly, recommends that the defendant’s Motion to Dismiss Count for Multiplicity [Doc. 41] be denied. The magistrate judge reasons that the lack of overlap in personnel and the distance between the two laboratories support a finding that there were separate conspiracies to manufacture methamphetamine. However, because his conclusions rest on the government’s proffered

evidence, the magistrate also recommends permitting the defendant to renew his motion after the government's proof at trial.

After a review of the R&R and the record in this case, the Court is in agreement with Magistrate Judge Guyton's recommendations, which the Court adopts and incorporates into its ruling. Thus, the Court **ACCEPTS IN WHOLE** the R&R [Doc. 53] and **DENIES** the defendant's Motion to Dismiss Count for Multiplicity [Doc. 41]. The defendant, however, will be permitted to renew his motion after the government's proof at trial, if he chooses to do so.

IT IS SO ORDERED.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE